

Activities of the European Ombudsman in 2012

European Parliament resolution of 12 September 2013 on the annual report on the activities of the European Ombudsman 2012 (2013/2051(INI))

The European Parliament,

- having regard to the annual report on the activities of the European Ombudsman 2012,
 - having regard to Article 24, third paragraph, Article 228, and Article 298 of the Treaty on the Functioning of the European Union (TFEU),
 - having regard to Articles 41 and 43 of the Charter of Fundamental Rights of the European Union,
 - having regard to its resolution of 18 June 2008¹ on the adoption of a decision of the European Parliament amending its Decision 94/262/ECSC, EC, Euratom of the European Parliament of 9 March 1994, on the regulations and general conditions governing the performance of the Ombudsman's duties²,
 - having regard to the Framework Agreement on Cooperation concluded between the European Parliament and the European Ombudsman on 15 March 2006, which entered into force on 1 April 2006,
 - having regard to the implementing provisions of the Statute of the Ombudsman of 1 January 2009³,
 - having regard to its previous resolutions on the European Ombudsman's activities,
 - having regard to Rule 205(2), second and third sentences, of its Rules of Procedure,
 - having regard to the report of the Committee on Petitions (A7-0257/2013),
- A. whereas the Annual Report on the European Ombudsman's activities in 2012 was formally submitted to the President of Parliament on 21 May 2013, and the Ombudsman, Mr Nikiforos Diamandouros, presented the report to the Committee on Petitions in Brussels on 28 May 2013;
- B. whereas the 2012 annual report is Mr Diamandouros's last annual report as European Ombudsman, as on 14 March 2013 he informed the President of the European Parliament of his intention to retire on 1 October 2013; whereas Mr Diamandouros was first elected European Ombudsman in 2003 and subsequently re-elected in 2005 and 2010;
- C. whereas Mr Diamandouros has completed ten years in office as European Ombudsman;

¹ OJ C 286 E, 27.11.2009, p. 172.

² OJ L 113, 4.5.1994, p. 15.

³ Adopted on 8 July 2002 and amended by decisions of the Ombudsman of 5 April 2004 and 3 December 2008.

whereas his successor is elected for the period from 1 October 2013 up to the European elections in 2014, after which a new election procedure has to be initiated by the new Parliament;

- D. whereas Article 24 TFEU stipulates that ‘every citizen of the Union may apply to the Ombudsman established in accordance with Article 228’;
- E. whereas Article 228 TFEU empowers the European Ombudsman to receive complaints concerning instances of maladministration in the activities of EU institutions, bodies, offices and agencies, with the exception of the Court of Justice of the European Union acting in its judicial role;
- F. whereas, pursuant to Article 298 TFEU, the EU institutions, bodies, offices and agencies ‘shall have the support of an open, efficient and independent European administration’, and whereas the same article provides for the adoption, to that end, of specific secondary legislation, in the form of regulations, applicable to all areas of EU administration;
- G. whereas Article 41 of the Charter of Fundamental Rights states that ‘every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions and bodies of the Union’;
- H. whereas the EU has designated 2013 ‘European Year of Citizens’ to celebrate the 20th anniversary of EU citizenship;
- I. whereas Article 43 of the Charter of Fundamental Rights states that ‘Any citizen of the Union and any natural or legal person residing or having its registered office in a Member State has the right to refer to the Ombudsman of the Union cases of maladministration in the activities of the Community institutions or bodies, with the exception of the Court of Justice acting in its judicial role’;
- J. whereas Parliament approved the Code of Good Administrative Behaviour, drafted by the Ombudsman, in its resolution of 6 September 2001;
- K. whereas maladministration occurs when a public body fails to act in accordance with a rule or principle that is binding upon it;
- L. whereas this definition does not limit maladministration to cases where the rule or principle that is being violated is legally binding; whereas the principles of good administration constitute a higher level of commitment than the law, requiring the EU institutions not only to respect their legal obligations, but also to embody the spirit of being service-minded and to ensure that all members of the public are treated with fairness, impartiality and dignity, and fully enjoy their rights;
- M. whereas in 2012 the Ombudsman registered 2 442 complaints (2 510 in 2011) and processed 2 460 complaints (2 544 in 2011); whereas 740 complaints (30 %) fell within his mandate;
- N. whereas the majority of complaints (56 %) are received in electronic format for registration via the European Ombudsman’s interactive website, which is available in all 23 official languages;

- O. whereas the Ombudsman opened 450 inquiries (382 in 2011) on the basis of complaints; whereas this constitutes an increase of 18 % compared to 2011; whereas he opened 15 own-initiative inquiries (14 in 2011) and presented one Special Report to Parliament;
- P. whereas the Ombudsman closed 390 inquiries (including 10 own-initiative inquiries), of which 206 from 2012, 113 from 2011 and 71 from previous years; whereas 85,3 % (324) of closed inquiries were from individual citizens and 14,7 % (56) from companies, associations or other legal entities;
- Q. whereas 1 467 complaints received fell within the competence of a member of the European Network of Ombudsmen; whereas this network is composed of national and regional ombudsmen and similar bodies in the EU, the EEA, Switzerland and the candidate countries; whereas Parliament's Committee on Petitions is a full member of the network; whereas the Ombudsman transferred 63 complaints to this committee;
- R. whereas 52,7 % of inquiries opened in 2012 concerned the European Commission, 5,2 % the European Parliament, 3,0 % the European External Action Service, 1,5 % the European Investment Bank and 20,9 % other EU institutions, agencies or bodies;
- S. whereas the main types of alleged maladministration investigated in 2012 concerned lawfulness (27,7 %), requests for information (12,5 %), fairness (10,3 %), time limits for decisions (8 %) and requests for access to documents (6,7 %);
- T. whereas the Ombudsman found no maladministration in 76 cases closed (19 %) and maladministration in 56 cases (14 %);
- U. whereas a finding of no maladministration is not necessarily a negative outcome for the complainant as he or she can benefit from receiving a full explanation from the institution concerned as well as the Ombudsman's independent analysis of the case, and has the assurance that the institution concerned has acted in conformity with the principles of good administration;
- V. whereas in 80 cases in 2012 a friendly solution was reached or the matter was settled by the institution concerned; whereas when the Ombudsman finds no maladministration or there are no grounds to continue an inquiry, he may issue a further remark; whereas a further remark aims to advise an institution on how it can improve the quality of the service it provides to citizens;
- W. whereas the Ombudsman closed 47 cases in which he found maladministration by addressing a critical remark to the institution; whereas in 9 cases the institution concerned accepted a draft recommendation;
- X. whereas the Ombudsman makes a critical remark if:
 - (i) it is no longer possible for the institution involved to eliminate the instance of maladministration,
 - (ii) the maladministration appears to have no general implications, and
 - (iii) no follow-up action seems necessary; whereas the Ombudsman also makes a critical remark if he considers that a draft recommendation would serve no useful purpose

and he proceeds likewise in cases where the institution fails to accept a draft recommendation, and it is not deemed appropriate to submit a special report;

- Y. whereas the Ombudsman issues a draft recommendation when it is possible for the institution concerned to eliminate the maladministration, or where the maladministration is particularly serious or has general implications; whereas in 2012 the Ombudsman issued 17 draft recommendations;
 - Z. whereas in 2012 the Ombudsman sent one special report to the European Parliament; whereas this special report concerned the Commission's handling of a complaint by citizens' initiatives fighting against what they perceived to be the negative consequences of the expansion of Vienna Airport; whereas a special report to Parliament is the Ombudsman's most powerful tool and constitutes the last substantive step the Ombudsman can take in dealing with a case;
 - AA. whereas Parliament's report on the Special Report concluded that the Ombudsman's concerns regarding possible maladministration were justified;
 - AB. whereas the Ombudsman publishes a study each year on the institutions' follow-up to his critical and further remarks; whereas the 2011 study showed that the rate of satisfactory follow-up of critical and further remarks was 84 %;
 - AC. whereas in 2012 the Ombudsman focused in particular on the integration of persons with varying degrees of disability; whereas the Ombudsman, together with Parliament's Committee on Petitions, the European Commission, the Fundamental Rights Agency and the European Disability Forum, works to protect, promote and monitor the implementation of the EU framework under the UN Convention on the Rights of Persons with Disabilities; whereas this convention is the first human rights treaty the EU has ever ratified;
 - AD. whereas the Council endorsed the proposal for an EU-level framework – including the Ombudsman and the Committee on Petitions – to monitor the implementation of the UN Convention on the Rights of Persons with Disabilities;
 - AE. whereas in 2012 the Ombudsman was officially recognised as being 'Committed to Excellence' by the European Foundation for Quality Management;
1. Approves the annual report for 2012 presented by the European Ombudsman; takes note of the fact that Mr Diamandouros will retire on 1 October 2013;
 2. Expresses its gratitude to Mr Diamandouros for his exemplary work as European Ombudsman over the past ten years and for the results he has achieved in making the EU fairer and more transparent; hopes that he may enjoy his retirement in good health and wishes him all the best in his further pursuits;
 3. Acknowledges the excellent work the Ombudsman has done to both strengthen and deepen the dialogue with citizens, civil society, the institutions and other stakeholders at all levels;
 4. Taking into account the fact that half of Europe's citizens agree that the second most important citizens' right is the right to good administration, considers that the Ombudsman's continuous efforts to enhance and improve openness, transparency and accountability in decision-making processes and administrations in the European Union

have made a decisive contribution towards creating a Union in which decisions are taken and implemented 'as openly as possible and as closely as possible to the citizen', as provided in Article 1 of the Treaty on the European Union; calls on the next European Ombudsman to continue her predecessor's good work towards these important goals;

5. Acknowledges with respect the untiring commitment with which the Ombudsman has reached out to citizens to make them aware of their rights under the Treaties and encouraged the administrations of the institutions and bodies of the EU to become more transparent and service-minded;
6. Considers that the Ombudsman has always exercised his powers in an active and balanced way and thanks him for the excellent working relations and cooperation with the Parliament, in particular with its Committee on Petitions;
7. Notes that 52 % of European citizens consider that the Ombudsman's most important function is to ensure that EU citizens know their rights and how to use them, and that therefore the Ombudsman needs to improve communication with Europe's citizens and enhance cooperation with the European Network of Ombudsmen;
8. Calls for the requisite steps to be taken to accelerate the procedures for investigating complaints, conducting enquiries and taking decisions;
9. Reiterates the fact that 42 % of European citizens are not satisfied with the level of transparency in the EU administration, and highlights the need for the Ombudsman to continue his efforts in helping the EU institutions become more open, effective and citizen-friendly, building bridges between the institutions and citizens;
10. Notes that transparency-related complaints have always been at the top of the Ombudsman's complaints list; notes also that such complaints are decreasing from the peak year of 2008, in which 36 % of complainants alleged lack of transparency, to 21,5 % in 2012; considers that this is a sign that the EU institutions have made significant efforts to become more transparent; calls on the EU institutions, agencies and bodies to help bring this number down further by cooperating with and implementing the recommendations of the European Ombudsman; remains nevertheless concerned about the still large number of complaints regarding openness, public access and personal data, as these issues are jeopardising interinstitutional dialogue, the EU's public image and the public's attitude towards the EU;
11. Reiterates that transparency, openness, access to information, respect for the rights of citizens, and high ethical standards are essential for maintaining trust between citizens and the institutions and that, particularly in the current difficult economic situation, this trust is extremely important for the future of European integration;
12. Calls on the EU Institutions, in the light of the growing digitisation of public administration, to respond to the special needs of older people, many of whom are not familiar with modern information and communication technologies, and to compensate for this by means of user-friendly applications, practical online help programs and readily accessible non-digital contact opportunities;
13. Notes that in 2012 the Ombudsman registered 2 442 complaints and that it was a record year in terms of both inquiries opened (465 = +18 % compared with 2011) and inquiries

closed (390 = +23 %);

14. Notes with satisfaction the ten 'star cases' presented by the Ombudsman, which provide model examples for administrative practice in the various EU institutions in a variety of fields;
15. Considers that the decrease in the total number of complaints submitted to the Ombudsman in 2012 is further proof of the success of the interactive guide on his website, which is a powerful tool designed to help ensure that fewer citizens complain to the Ombudsman for the wrong reason and to improve the possibilities for advising complainants on where to turn to instead; notices that the trend confirms that an increasing number of people turning to the European Ombudsman are doing so for the right reasons; suggests that Members of the European Parliament, EU institutions, bodies and agencies, as well as members of the European Network of Ombudsmen, install a direct link to the interactive guide on their websites and social media channels;
16. Highlights the fact that the number of complaints outside the Ombudsman's mandate (1 720) was the lowest in ten years; calls on the Ombudsman to continue his efforts to further reduce these cases;
17. Recognises the important contribution of the European Network of Ombudsmen and emphasises the usefulness of an efficient cooperation for the benefit of European citizens; notes that 60 % of the complaints the Ombudsman processed in 2012 fell within the competence of a member of the network; recalls that the Committee on Petitions is a full member of the network; notes that in 2012 the Ombudsman transferred 63 complaints to this committee; congratulates the European Ombudsman on successfully coordinating the network; considers that this is a vital function of the Ombudsman's activities and that cooperation in the network should be deepened in order to improve the national administration of EU law; recommends that the network be expanded to include relevant national bodies; considers that the Ombudsman's participation in European and international Ombudsman associations should be maintained and strengthened;
18. Notes that, as in previous years, most inquiries opened by the Ombudsman concerned the Commission (52,7 %); notes that the number of inquiries opened in 2012 concerning the European Parliament almost doubled compared with 2011; calls on its Secretariat to cooperate fully with the Ombudsman and ensure compliance and consistency with his recommendations and comments regarding administrative practices;
19. Highlights the fact that every closed inquiry represents a step in the right direction and a good opportunity for bringing in the improvements that the public has identified and called for, as a way of making the concept of European citizenship as participatory as possible with regards to the European legislative process;
20. Commends the Ombudsman on his initiative of publishing a set of public-service principles which should guide the conduct of EU civil servants; recalls that the five public service principles are: commitment to the European Union and its citizens, integrity, objectivity, respect for others and transparency; calls on the EU institutions, agencies and bodies to internalise these principles in all their operations;
21. Welcomes the fact that in June 2013 the Ombudsman published a new edition of the European Code of Good Administrative Behaviour, taking into account the principles of

European administrative law contained in the case-law of the European courts;

22. Is pleased with the Ombudsman's involvement in a number of different conferences focusing on better public administration, including one which he co-organised with the Research Network on EU Administrative Law (ReNEUAL);
23. Reiterates the call made in its resolution of 15 January 2013¹ on the Commission to adopt common binding rules and principles on administrative procedure in the EU's administration and to present a draft regulation to this end on the basis of Article 298 TFEU; considers that the experiences of the Ombudsman to date and his publications reporting on them provide appropriate guidance for the substance of such a legislative proposal; considers that this would be the best way to ensure lasting change in the administrative culture of the EU institutions;
24. Is pleased to note that the institutions provided 98 positive replies to the 120 remarks and recommendations that the Ombudsman made in the context of his inquiries in 2012, which means that in 82 % of cases the EU institutions comply with the Ombudsman's suggestions; calls on all EU institutions, agencies and bodies to do their utmost to ensure full compliance with the Ombudsman's remarks and recommendations and to assist the Ombudsman in speedily responding to his inquiries by, *inter alia*, working together with the Ombudsman to reduce the deadlines in the inquiry process;
25. Recalls that in 2012 the Ombudsman submitted one special report to Parliament, which concerned the Commission's failure to address a conflict of interest in the handling of the expansion of Vienna Airport, the lack of Environmental Impact Assessment relating to that expansion, and the absence of review procedures available to those who complained about the construction project and the absence of an EIA; acknowledges the opportuneness of such a report given the issues involved; recalls that in response to this special report the Committee on Petitions made forward-looking proposals for the current revision of the EIA Directive and for an EU administrative law;
26. Considers that, especially when a draft recommendation is made, the knowledge that the next step could be a special report to Parliament often helps persuade an institution or body to alter its position;
27. Notes that the previous and the current Ombudsman have in 17 and a half years presented only 18 special reports; considers that this is proof of the cooperative approach adopted by the EU institutions in the majority of cases; acknowledges the importance of these special reports and encourages the Ombudsman to further pursue such cases when it comes to important cases of maladministration concerning EU institutions, bodies, offices and agencies;
28. Emphasises that International Right to Know Day on 28 September is an initiative which raises the profile of the Ombudsman among the European public and is an example of good practice;
29. Welcomes the Ombudsman's participation, alongside Parliament's Committee on Petitions, the European Disability Forum, the Commission and the Fundamental Rights Agency, in the EU-level Article 33(2) Framework, which is charged with protecting, promoting and

¹ Texts adopted, P7_TA(2013)0004.

monitoring the implementation of the UN Convention on the Rights of Persons with Disabilities; calls on the Ombudsman to put special emphasis in his work on the needs of highly vulnerable social groups, including those with disabilities;

30. Welcomes the Ombudsman's efforts to safeguard the implementation of the Charter of Fundamental Rights by the EU's institutions, also through his own-initiative inquiries; foresees another, similar, duty being conferred onto the Ombudsman with the accession of the Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms, as required by Article 6 of the Treaty on European Union;
31. Stresses the importance of the Ombudsman's own-initiative inquiries, which allow him to address issues that are not otherwise brought to his attention owing to the fact that the public do not have the requisite information or resources to apply to him; considers it important to increase the visibility of the Office of the European Ombudsman;
32. Welcomes the adoption during 2012 of a law establishing an ombudsman institution in Turkey; acknowledges the role of the European Ombudsman's support and advice in this development; is pleased with the fact that all the candidate countries have now established an ombudsman institution at national level; considers that experience shows that the Ombudsman is a highly useful body for the improvement of good administration, the rule of law and defence of human rights and that the Member States that have yet to establish an Ombudsman institution should therefore actively consider doing so; calls on the European Ombudsman to carry on assisting future candidate countries in this process;
33. Instructs its President to forward this resolution and the report of the Committee on Petitions to the Council, the Commission, the European Ombudsman, the governments and parliaments of the Member States and their ombudsmen or similar competent bodies.